



IPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: OZAKI=9

In re Application of:)	Confirmation No.: 8081
)	
Kouki OZAKI et al)	Art Unit: 1731
)	
Appln. No.: 10/724,359)	Examiner: Mark Halpern
)	
Filing Date: December 1, 2003)	March 8, 2006
)	
For: METHOD OF MAKING)	
POLARIZABLE ELECTRODE...)	

PETITION TO VACATE HOLDING OF ABANDONMENT¹

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop AF
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed January 18, 2006, which **erroneously** states that the application is abandoned because of applicants' failure to file a response within the time period established by the Office Action mailed July 11, 2005.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

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THE FACTS

Applicants timely and properly responded within the time period established by the Office Action dated July 11, 2005, by timely filing a Reply on January 11, 2006.

As evidence that such Reply was timely and properly filed on January 11, 2006, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on January 11, 2006.

As it appears that the Reply filed on January 11, 2006, has been lost by and in the PTO, attached hereto is a duplicate signed copy of such Reply (entitled "REPLY: AMENDMENT AND REMARKS") dated January 11, 2006, and related papers. **However, as the fee for three months' extension has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No extension fees are required at this time.**

REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Office Action mailed on July 11, 2005, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

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A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

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By



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